



THE CITY OF SAN DIEGO
MANAGER'S REPORT

DATE ISSUED: October 18, 2000 REPORT NO. 00-225

ATTENTION: Honorable Mayor and City Council
Docket of October 24, 2000

SUBJECT: Appeal of Planning Commission's Denial, Mortenson Residence, Sensitive Coastal Resource Development Permit And Variance
No. 99-1366, Council District 1, Process 4

REFERENCE: Planning Report No. P-00-129, Planning Commission Agenda of August 3, 2000, and decision to deny an application to maintain improvements located within the required side yard setback

OWNER/
APPLICANT: Veryl J. Mortenson

SUMMARY

Issues - Should the City Council DENY the appeal and UPHOLD the decision of the Planning Commission to deny an application for a Sensitive Coastal Resource (SCR) Permit and Variance (VAR) to maintain improvements located within the 4'-0" interior side yard setback?

Manager's Recommendation - DENY the appeal and UPHOLD the decision of the Planning Commission to deny the application.

Community Planning Group Recommendation - On April 6, 2000, the Coastal Development Permit Review Sub-Committee voted 2-4-4 to recommend denial of the application. On May 11, 2000, the Trustees of the La Jolla Community Planning Association voted 12-0-3 to recommend approval of the application (Attachment 5).

Other Recommendations - None.

Environmental Impact - None. This project has been reviewed and determined to be exempt from the California Environmental Quality Act (CEQA), based on Article 19 of the Guidelines for Categorical Exemptions, Section 15301.1 (Existing Facilities), and there are no environmental issues.

Fiscal Impact - None. All costs associated with processing this application are paid from a deposit account maintained by the Applicant.

Code Enforcement Impact - Based on a citizen inquiry, Neighborhood Code Compliance staff conducted an investigation and determined that the encroachments had been constructed within the required side yard setback without approved permits, in violation of the Municipal Code. A Notice of Violation was issued to the property owner, who then filed an application for the SCR/VAR to maintain the improvements.

Housing Affordability Impact - None with this action.

BACKGROUND

The subject property was developed with an existing two-story, single-dwelling unit in 1971 and is addressed as 7126 Vista Del Mar, located between Vista Del Mar to the east and an access roadway (serving an existing City-owned pump station), and the Pacific Ocean to the west. In addition to the single-dwelling unit, the property was developed with an in-ground spa, a combination masonry wall/fence, a trellis/patio cover, and an equipment/storage room located on a southwesterly portion of the property adjacent to the residence. The remainder of the property is developed with miscellaneous landscape and hardscape.

The approximately 7,400 square-foot legal lot is zoned RS-1-7 (Single-Family Residential) within the La Jolla Community Plan Area, and located within the City of San Diego Coastal Zone (Coastal Commission Appeal Jurisdiction). The surrounding area is designated by the La Jolla Community Plan for low-density, single-family residential development to the north, east and south. Surrounding development within the vicinity consists of one- and two-story single-dwelling units.

The Applicant requested the SCR Permit and VAR in an effort to maintain three improvements located within the 4'-0" required interior side yard setback. The application was initiated, deemed complete and reviewed under Municipal Code regulations in effect prior to enactment of the Land Development Code (LDC) on January 1, 2000. Land Development regulations of the Municipal Code regulate structures including fencing and walls within required yards/setbacks. Approved variances are required to be obtained to locate overheight walls or other structures within these portions of the property prior to construction. An approved SCR Permit is required for the subject property based on a determination that the structure(s) (Improvement Nos. 2 and 3), increase the envelope/footprint of an existing building or accessory structure.

These improvements included the following; 1) A solid masonry wall, 8" in width, 7'-1" in height, with 1'-6" high solid wood fencing on top (totaling 8'-7" in height), and 27' in length. An approximate 1'-0" high portion of the wall retains earth for the adjacent property to the south, also developed with a single-family residence; and 2) A wooden trellis/patio cover (284 sq. ft.) approximately 10'-6" in width, 8'-8" in height, and 27' in length, attached to the south wall of the residence and which extends over an in-ground spa. This structure is constructed of 2" x 6" wood configured in slats, and is attached to wood fencing located atop the masonry wall. The structure provides covered access and privacy to/from the spa and an adjacent bedroom located on the first floor of the residence; and 3) A wooden storage shed (53 sq. ft.) accessed by a doorway from the spa area and measuring approximately 5' in width, 8'-8" in height, and 10'-6" in length, which contains filtering, heating and related equipment to service the spa.

Although the application to maintain these improvements was filed prior to enactment of the LDC, it has been determined that the Applicant will be afforded the benefit of LDC regulations currently in effect. These regulations are beneficial with regard to Improvement No. 1, providing more flexibility in the measurement of fencing, freestanding and retaining walls than those of the previous Municipal Code. These regulations allow the Applicant to maintain the existing combination retaining and freestanding retaining wall at its current height, provided that the solid wood fencing atop the wall is modified to comply with the 'open fencing' design criteria. Should the Applicant choose not to modify the solid wood fencing to comply with the 'open fencing' design criteria, an approved variance is required. An approved building permit is required for fences and/or walls which exceed six feet in height. Should the Applicant choose to reduce the height of the wall to six feet or less, a building permit is not required.

Prior to the Planning Commission hearing, the Applicant demolished the storage shed (Improvement No. 3). On August 3, 2000, the Planning Commission took action and denied the application determining that the findings required to approve the SCR Permit and VAR (pertaining to each improvement) could not be supported. The decision of the Planning Commission to deny the variance request for the combination wall/fence reflected submittal and review of the application under previous Municipal Code regulations.

The remaining wooden trellis/patio cover (Improvement No. 2) continues to require approval of an SCR Permit and VAR to be maintained. This approximately 284 sq. ft. structure is attached to the residence and provides covered access and privacy to/from an in-ground spa adjacent to a bedroom located on the first floor. The Applicant has indicated a desire to maintain this improvement based on privacy concerns.

DISCUSSION

This proposal is to remedy the Notice of Violation for improvements constructed without required permits. The City has made efforts to obtain voluntary compliance from the Applicant to modify or remove these improvements.

Based on staffs' review, including testimony and evidence presented at the public hearing, the Planning Commission determined that findings required for approval of the request could not be supported. Therefore, staff recommends the City Council deny the appeal and uphold Planning Commission's decision to deny the request. Should this occur, staff recommends that the resolution of denial reflect direction that within 60 days of the decision date, the Applicant - 1) Modify the solid wood fencing atop the freestanding/retaining wall (Improvement No. 1) to comply with open design criteria of the LDC, acquire a building permit and obtain final inspection; and 2) remove the wood trellis/patio cover (Improvement No. 2).

ALTERNATIVE

APPROVE the request for a SCR Permit and VAR, making the findings as specified in the Land Development Code.

Respectfully submitted,

Tina P. Christiansen, A.I.A.
Planning and Development Review Director

Approved: George I. Loveland
Assistant City Manager

HAASE/WCT

Attachments: 1. Location Map
2. Site Plan
3. Draft Permit and Conditions
4. Community Planning Group Recommendation
5. Copy of Appeal
6. Ownership Disclosure